

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

MICHAEL EDWARD FINCK,
Appellant.

No. 2 CA-CR 2021-0090
Filed October 27, 2022

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).

Appeal from the Superior Court in Pima County
No. CR20110480001
The Honorable Renee T. Bennett, Judge

AFFIRMED

COUNSEL

Robert A. Kerry, Tucson
Counsel for Appellant

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MEMORANDUM DECISION

Presiding Judge Eckerstrom authored the decision of the Court, in which Chief Judge Vásquez and Judge Cattani concurred.

ECKERSTROM, Presiding Judge:

¶1 After obtaining relief in a federal habeas proceeding, Michael Finck was resentenced for one count of possession of a deadly weapon by a prohibited possessor. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530 (App. 1999), stating he has reviewed the record “but found no tenable issue” to raise on appeal and asking this court to review the record for error. Finck has filed a supplemental brief.

¶2 Finck was convicted in 2013 of three counts of possession of a deadly weapon by a prohibited possessor and sentenced to concurrent fourteen-year prison terms. We affirmed his convictions and sentences on appeal. *State v. Finck*, No. 2 CA-CR 2013-0039 (Ariz. App. Sept. 2, 2014) (mem. decision). Finck then sought and was denied post-conviction relief. *State v. Finck*, No. 2 CA-CR 2016-0299-PR (Ariz. App. Nov. 23, 2016) (mem. decision). A federal district court later granted a writ of habeas corpus based on a purported failure by the trial court to adequately advise Finck – who represented himself at trial – pursuant to *Faretta v. California*, 422 U.S. 806 (1975), after the state had added two counts in a supervening indictment. *Finck v. Shinn*, No. CV 18-282-TUC-FRZ, 2020 WL 4365839 (D. Ariz. July 30, 2020). The district court directed that Finck be retried on the three counts or, in the alternative, that the state must move to dismiss the two later counts and Finck would be resentenced on the original count. *Id.*

¶3 The trial court granted the state’s subsequent motion to dismiss the two counts and to resentence Finck on the remaining count. The court then imposed an eight-year prison term. This appeal followed.

¶4 The sentence is within the statutory limit and was lawfully imposed. See A.R.S. §§ 13-703(J), 13-708(D), 13-3102(A)(4), (M). We have reviewed the arguments Finck identified in his supplemental brief and have

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concluded none are arguable issues requiring further briefing.¹ See *State v. Thompson*, 229 Ariz. 43, ¶ 3 (App. 2012).

¶5 Pursuant to our obligation under *Anders*, we have searched the record for reversible error, including the purported errors Finck identified in his supplemental brief, and found none. Accordingly, we affirm Finck's sentence.

¹Finck's claim regarding a jury instruction relates to his trial and cannot be raised in this appeal from his resentencing.